

KASHMIR

**FREEDOM THOUGHTS
STRUGGLE AND TYRANNY**



CHAPTER- 13

JALEEL THE MARTYR

Jaleel Andrabi a leading human rights activist of the valley was murdered in mysterious circumstances in March 1996. Thus one who had actively fought against killings, disappearances and torture of innocent civilians, became a victim of torture and execution. Jaleel Andrabi was the founder chairman of Kashmir Commission of Jurists. He did commendable work in documenting and exposing the abuse of human rights of the people of Jammu and Kashmir. Amnesty International regarded Jaleel as one of the leading human rights defenders of Jammu and Kashmir.

This chapter starts with a news item about the discovery of the decomposed dead body of Jaleel Andrabi, which was found in Jhelum River. There are brief accounts of other defenders of human rights who were brutally killed. There are four articles written by eminent persons like Ved Bhasin, Editor Kashmir Times, Prof. A. C. Bose of Jammu University and Dr. Sumantra Bose of London University who all knew Jaleel and his work. The chapter includes two articles written by Jaleel Andrabi on UN's Role in Jammu and Kashmir and Kashmiri Peoples' right to self-determination published in 1995.

Jaleel returns to leave for good

The decomposed dead body of Jaleel Andrabi an eminent valley based lawyer was recovered from Jhelum River early in the morning on March 27th 1996 from Kursoo, Rajbagh area. The lawyer according to eyewitnesses was arrested by a particular security agency at 5:15pm near his Peerbagh residence on March 8, 1996 while on his way to home. However the security agencies denied his arrest, which resulted in, a legal battle between the Bar and the administration. Nineteen days later, his corpse was found floating in the River Jhelum at Kursoo-Rajbagh, Srinagar. It was swollen; bore marks of torture and a bullet mark on the forehead. Both the eyes were missing. The left side of the skull was seen broken thus damaging severely altering the symmetry of the face. There were quite a few pressure marks on his throat indicating his tormentors might have tied the knot forcefully during interrogation.

Prior to his arrest twice gunmen in civvies attacked Jaleel Andrabi in the month of February this year. Jaleel Andrabi had visited America last year and also participated in U.N Human Rights commission. He was supposed to attend commission this year to represent the Hurriyat Conference. Jalil headed a human rights group Kashmir commission of jurist.

Hearing the news the people from all walks of life rushed to police station Ram Munshibagh but the police personal on the duty had sealed the area and nobody including the press was allowed to go inside. Though the government had constituted a three member team to conduct post mortem of the dead body but the bar association filled an application before the High Court at Srinagar which in turn issued a direction to the Principal Government Medical College, Srinagar to constitute a team of three experts headed by head of department surgery having expertise in the field to do the post mortem. The court further directed the principal to furnish the report to the court and copy to the three member investigating team already constituted by the court. Meanwhile member of people and leaders visited Jaleel's residence to express solidarity with the bereaved family. Jaleel laid to rest on March 28, 1995.

In 1992-93, three leading human rights activists and one topmost intellectual of JKLF were killed in Srinagar. On December 5, 1992, H.N. Wanchoo, a Kashmiri Pandit and retired civil servant who had documented hundreds of cases of extra-judicial executions, disappearances and torture by the security forces, was shot dead by unidentified gunmen. On February 18, 1993, Dr. Farooq Ahmed Ashai, an Orthopedic Surgeon who documented cases of torture through his hospital work was shot by CRPF and then prevented him from being taken to a hospital for emergency care and died later. On March 3, Dr. Abdul Ahad Guru, a leading member of JKLF who had also documented abuses by Indian Security forces, was abducted by unidentified gunmen and shot dead. On December 31, 1993 Prof. Wani, the brilliant intelligent member of JKLF, was abducted by unidentified gunmen and shot dead. The government of India has never made public and action it has taken to investigate these killing or prosecute those responsible. On April 22, 1995 two unidentified gunmen opened fire on Mian Abdul Qayoom, president of the Jammu & Kashmir Bar Association. As a result of the shooting Qayoom was physically crippled. On October 17, 1995, another Srinagar High Court advocate A.Q. Sailani was shot dead by unidentified gunmen several yards from an army bunker. No investigation of that shooting ever took place. Other rights activists have also been detained, arrested and charged under the notorious Public Safety Act.

Jaleel, the martyr

(Greater Kashmir, March 28, 1996)

The brutal murder of Jaleel Ahmad Andrabi a leading Human Rights activists, has rendered the wounded paradise poorer to one more intellectual and an illustrious

son. A promising and upcoming jurist who lived much ahead of his times has been put to sleep in highly suspicious circumstances. Alas! A person who campaigned and fought for upholding human rights throughout his carrier, become a victim himself of some deep routed conspiracy aiming at silencing the voice of dissent. It is his commendable work in the area of human rights, which earned him place in the World's front ranking human rights body i.e., Amnesty international.

Kashmir commission of jurist, the human rights body founded by Jaleel, in a very short span of time of its formation was able to carve a niche for itself among the human rights group world over. Jaleel's write-ups on Kashmir were well drafted and shall serve as reference material for research scholar researching Kashmir polity. In his write-ups he would convey his message with telegraphic brevity and would leave no room for any ambiguity or confusion.

Jaleel Andrabi, although very young in age, was yet gifted with unparalleled power of understanding situations. He was very clear in his ideology and would never vacillate. Yet he believed in tolerance and respect for the view of others. Jaleel Andrabi proved his elders right who had given him the name as he in his very short lifetime excelled in his field and achieved an exalted position. Alas! The gentleman, who had an immense love for his people, is today no more amongst them. He has been snatched from his people at a time when they needed his help and valuable counsel the most. Over the year the poor Kashmiri have been orphaned slowly and steadily. Their well-wishers, like Molana Mohamad Farooq who guided them both Religion and politics were assassinated. Their friends, philosophers, healers and guides like Dr. Ab. Ahad Guroo, Dr. Farooq Asahia, and Dr. Ab. Ahad Wani. H.N. Wanchoo were gunned down only to rendered them politically, philosophically and spiritually orphaned.

And now another noble soul who had dedicated his life to the human rights has been done to death in a dastardly manner. Kashmiris have been mourning their dead since long and there appears no end to the death and despair enveloping the wounded paradise. The situation has been brutalized to the extend that now victim are not spared of brutalities even after their death. The decomposed and mutilated body of Jaleel Andrabi bore testimoney to the fact that vultures in the grab of human skin are on the prowl in Kashmir. Will these brutalities see an early end in Kashmir or not... is a million dollar question.

Jaleel, the martyr, although no more in this world will continue to live in our hearts and mind till times to come. He will continue to serve as a beacon light for all those who love humanity and are concerned about human welfare.

Murder most foul

Ved Bhasin (The Kashmir Times, March 29, 1996,)

Mr. Jalil Andriabi 's death will be deeply mourned by all men and women of conscience. A case of murder most foul, it has expectedly sent shock waves through

the length and breadth of Kashmir valley. The Kashmir Bar Association agitated the issue of the mysterious disappearance of Mr. Andrabi and it is the people of the state in general who have to grieve over his death in tragic circumstances. The incident is highly shocking. Even if the murderers are apprehended and brought to book under the law of the land, the agony will persist. Not only has a young life been taken away prematurely but the very principle of regard and respect for human dignity and respect and freedom has been sought to be strangled. This may not have happened for the first time in the valley's history of the last seven years. Indeed, worse may have happened in a number of cases. But Jalil Andrabi case will remain ever fresh in the minds of people for a variety of reasons. The needle of suspicion for his assassination points to the security forces who allegedly arrested him on March 8 when he was on his way back home. The evidence in this regard comes from his widow who was accompanying him.

The security authorities have denied the charges but the suspicion remains, giving an added dimension to the phenomenon of human rights violations under the garb of anti-militancy operation. It was this phenomenon that made Jalil Andrabi float the Kashmir Commission of Jurists four years back in association with four other human rights activists. It is an irony of fate that he himself had to meet the most inhuman treatment at the hands of those who picked him up just 20 days back at gunpoint. He himself went on records in January last to say that some gunmen threatened him with dire consequences when he refused to accompany them. He claimed to have taken the pictures of the gunmen, which, if true, may provide some clues to the identity of his killers. Reports suggest that at least two attempts were made to kidnap him in the last a few months. The special investigation team of the state police can ascertain details from the bereaved family for the purpose of taking the veil of mystery off Mr. Andrabi's abduction and subsequent assassination. Reports say that photographs of two gunmen who barged into his residence on January 29 last have been sent out to all the police stations in and around Srinagar City. The needle of suspicion does not therefore point only to the security forces. It may ultimately turn out to be a case similar to the assassination much earlier of another human rights champion Mr. H N Wanchoo. But suspense will remain till such time as the arrest of the culprits who, police say, have not been traced so far. Apprehensions are expressed that the two suspected assassins might also be liquidated to destroy all possible evidence. What if this has already happened? In no way can the investigating team constituted by the state high court escape the responsibility of ascertaining the identity of the suspects and bringing them to book. Unfortunately, the state law and order machinery has been the most unreliable insofar as the investigation and challenging of important cases are concerned. More often than not they are closed or dragged on even when the culprits are claimed to have been identified and arrested. It is for the Governor's administration to explain why it is so. It cannot always get away by saying that a systematic campaign is

launched from time to time to malign it. With Mr. Andrabi's assassination a major case has been added to the long list of pending cases before the administration, which has to be seen to be doing something concrete about solving them. In the mean while, it needs to be pointed out that the gruesome murder of the founder Chairman of the Kashmir Commission of Jurists has brought out yet again how widespread is the phenomenon of uncertainty and insecurity in the unfortunate valley. Nobody is safe and hardly anybody can be sure of returning home alive or waking up to see another day of a worthwhile life. Nothing seems to move the merchants of death. Not even the weeping and wailing Rifat or her three orphaned children. The question that shares every body in the face is how long can it be allowed to continue....

Andrabi's cruel killing

Prof. A.C. Bose (The Kashmir Times, April 9, 1996)

By the time this letter sees the light of the day a month will pass since Jalil Andrabi's final disappearance. In this case, every accusing finger from Qazi Gund to Baramulla, points at certain official agencies, in general, and at the Rashtriya Rifles, in particular. And, why not? Commenting on H.N. Wanchoo's murder on 5th December 1992 the Amnesty International wrote of "continued suspicion in the valley that official agencies may have had a hand" in this assassination. Even two highly respected judges of J&K High Court, R.P. Sethi and S.M. Rizvi, are on record as having said, while delivering judgments, on similar occasions that "the detainees (have) not been set at liberty despite the direction," and that "scores of cases are pending wherein the detainees have been allegedly done away with after arrest."

As expected, authorities deny any involvement in such heinous a crime, but have so far only invited criticism and further suspicion by their casual approach to an impartial inquiry into the brutal killing of such eminent peace-loving man who has become a martyr to a 'noble cause - whoever may be the killers. Inquiries are far more swiftly instituted when friendly criminals are killed. Government must see to it that voices, like those of Andrabi, are not silenced in this way.

If the authorities really had nothing to do with this crime they may try to prove their bonafide by immediately renaming a road or a park at Srinagar after him, who by every standard was a great son of the Valley and champion of a universal cause. It is a pity that his cruel killing has not yet stirred our souls, as it should have.

In memoriam: Jalil Andrabi

Sumantra Bose (The Kashmir Times, March 31, 1996)

In a place where rule of law is non-existent, and any mention of human rights sounds like a bad joke, a human rights lawyer cannot normally be expected to have much success. It is a tribute to Jalil Ahmed Andrabi's dedication tenacity

and brilliance that he succeeded," even in such grim circumstances. Indeed, he was apparently so successful in his dangerous and difficult work that he had to be savagely silenced. In the end it was his courage that proved to be his undoing. He was a fearless crusader for basic morality and human dignity in a situation where all morality has disappeared, human dignity is incessantly and want only violated, and fear is pervasive. Such individuals don't survive for very long in Kashmir, as the tragic fate of Dr. Abdul Ahad Guru, Pandit Hariday Nath Wanchoo, and now Jalil Andrabi (among others) clearly demonstrates.

I met Jalil for the first time in January 1995 in Calcutta, when he came from Stringer to participate in a major international conference devoted to advancing the cause of peace, common security in south Asia. He came as a leading member of a delegation from Kashmir, headed by Jammu and Kashmir Liberation front (JKLF) chairman Mohammad Yasin Malik which attended that conference were greatly impressed by Jalil's eloquence, his strength of conviction and his eagerness to learn by interacting constantly with other delegates at the conference, who included a galaxy of prominent personalities from India, Pakistan and Bangladesh.

My last memories of Jalil date to just a few months ago, when he came to New York on human rights related work. Sitting over a long and leisurely lunch in an Indian restaurant, he commended me for taking the trouble, and showing the guts, to travel extensively around the war torn Kashmir valley and Doda district (Jammu) last summer, to see and judge the situation for myself. "Really, it is not safe!" He exclaimed, as he eagerly asked about my assessment of the situation, and predictions for the future. As he disappeared into one of New York's yellow taxis, we made plans to meet up again soon, probably in Srinagar. Inshallah, of course.

What I did not tell Jalil then was that he was seriously exaggerating my courage. Being an outsider, I could simply do my work, and then conveniently flee the hell that Kashmir has been reduced to, after a few hectic weeks. But the irony is that Jalil Andrabi, despite being a son of Kashmir, probably also had that choice. For a man of his background and qualifications, it would have been easy to migrate to Delhi, establish a flourishing legal practice there, and lead a safe, comfortable life. But Jalil did not want such a life. He made a conscious decision to stand with his people in their hour of crisis, and struggle tirelessly for their rights and dignity in whatever way he could.

He paid for that decision with his life. Thus it came about that the man who has probably done more than anyone else to publicize and campaign against illegal detentions; custodial torture and extra judicial executions in Kashmir became a victim of precisely that kind of detention, torture and execution. If the manner of Jalil Andrabi's abduction was a violation of basic tenets of legality, the manner of his murder was a violation of the most fundamental norms of human civilization. What makes this barbaric crime all the more obscene is that Jalil's methods of

struggle had been entirely peaceable and lawful. While a strong believer in the idea of an independent Kashmir, Jalil sought to protect his people not through the gun, but by ceaselessly demanding that the Indian state abide by its constitutional obligation to respect the life, liberty and property of its Kashmiri citizens.

That was probably what made him an object of such hatred to those who carefully planned and perpetrated his assassination. It would not do to simply finish the man off with a bullet to the head; he would first have to be degraded and punished for his intolerable defiance. The grotesque spectacle of one of Srinagar's most prominent citizens showing up as a mutilated corpse in the Jhelum would also serve to send an useful message to a population already severely demoralized by years of repression. If such a well-known personality ends up in a burlap sack with his eyes gouged out, what can the typical nameless, faceless Kashmiri civilian expect? The message is crystal clear your struggle is futile; give it up and accept the reality. We are all powerful- you are powerless. Eliminating Andrabi in such a dramatic fashion would further be a richly deserved lesson for those troublesome meddlers. A troublesome amnesty international and human rights watch, for whom he was an available contact and resource person. So much for "transparency" on the rights situation in Kashmir.

Jalil has now formally been enshrined in Kashmir's pantheon of "martyrs" this tombstone in Idd- Gah. Srinagar's martyrs graveyard bears the simple inscription: "Jalil Andrabi, Shaheed". As his tortured body is laid to rest, his bereaved family and friends can perhaps draw some solace from words once penned by Ali sharia the revolutionary socialist thinker of Iran:

A Shaheed is the heart of history. The heart gives blood and life to the otherwise dead blood vessels of the body. Like the heart, a Shaheed sends his own blood into the half dead body of the dying society, which has accepted submission... The greatest miracle of Shihadat (martyrdom) is giving to a generation a renewed faith in itself. A Shaheed is ever present and calculating.

What greatest solace can there be than the feeling that one has lived and died for a principle? What greater satisfaction can a man possess than the knowledge that his spirits to carry on his unfinished task? What greater consummation can life attain than peaceful self-immolation at the alter of one's cause? Hence it is evident that nobody can lose through suffering and sacrifice. If he does lose anything of the earth earthy, he will gain much more in return by becoming the heir to a life immortal.

Jalil's memory deserves to be remembered and honored not just by his fellow Kashmiris, but by all in south Asia and beyond who believe that serious and complex political problems such as the Kashmir question cannot and should not be resolved through brutal violence. As a South Asia, a secularist and democrat, I feel proud to have his fellow South Asian, a fellow secularist and fellow democrat as my friend.

Jaleel urges UN to fulfill its obligations towards Kashmiris

(Greater Kashmir, August 21, 1995)

Mr. Jaleel Andrabi, Chairman Kashmir Commission of Jurists, representing All Parties Hurriyat Conference at the 47th session of UN's Sub-Commission on Prevention of Discrimination and Protection of Minorities currently in session at Geneva, has urged the UN to fulfill its obligations towards Kashmiris. Following is the text of his address delivered on August 14.

"Peace is the Universal aspiration of mankind and peace and justice are indispensable to the full realization of human rights and fundamental freedoms". It was inter-alia the recognition of this ground reality that the "Proclamation of Tehran" was issued by the International Conference of Human Rights on May 13, 1968, calling upon the states to confirm to the standards and obligations under the international Covenant on Civil and political rights, the international covenant of economic, social and cultural rights, the declaration on the granting of independence to colonial countries and people, said Jalil Andrabi.

The aforesaid covenants recognized the fundamental human right of all peoples to 'self-determination' by virtue of which they inter-alia freely determine their political status, and called upon states parties to the said covenants to respect and promote the realization of this right in conformity with the charter of the United Nations, added he.

The denial of right of self-determination has all along been an impediment to maintenance of peace and security in the world. It has been the primary cause of many armed conflicts in the world and has provided an excuse too many states to divert disproportionately higher percentages of their resources towards the maintenance of huge armies and piling up of deadly weapons of war. As a result of this majority of population in the third world countries suffers from denial of basic amenities forcing them to lead sub-human lives, infringement of right to live with dignity, argued Mr. Jalil.

According to the estimates of 'Rajaji Foundation' of Bombay in August 1990, the Government of India spent somewhere between 250 to 500 million rupees daily to maintain its over five thousand armed personnel in Kashmir. In addition to this after having fought three wars with Pakistan, primarily on Kashmir issue, India spends billions of dollars on acquisition of modern and more sophisticated weapons of mass destruction. As a result of this vast majority of the population of India is deprived of basic amenities inherent in fight to live including food, clothing, health, shelter, care, education and social security, disclosed Mr. Jalil.

Today it is universally accepted that after the end of cold war the denial of the right of self-determination is the greatest threat to world peace. The denial of the right of self-determination to the people of J&K by India is not only a perpetual threat to the peace in the sub-continent of South Asia but it also casts the shadow

of possibility of a nuclear holocaust in the region. This denial addition being the root cause of the massive human rights violations in Kashmir is also an impediment to the enjoyment of the basic necessities of life inherent in right to life by the vast majority of the people not only in India but the sub-continent of South Asia as a whole, cautioned Mr. Jalil.

The exercise of right of self-determination by the people of Kashmir has thus become the precondition to the enjoyment of basic human rights including the right to life by the people of South Asia, argued Mr. Jalil.

The implication of humanitarian activities by UN and other international agencies for the enjoyment of human rights may vary from case to case and country to country. In practical terms the UN humanitarian agencies are the agencies like the international committee of the red cross, may not be able to alleviate the sufferings of the people who are denied the enjoyment of basic human rights, yet the mere existence of an international humanitarian agency may sometimes have a restraining affect upon the atrocities. Mr. Max Hadorn, who headed a delegation of international committee of the red cross of Kashmir in early 1994, revealed to us what Mr. Nelson Mandela, has told him many years back when he was in prison. I quote, "more important than what you do to elevate my suffering is what your visits to me actually prevent".

In J&K, India is perpetrating a systematic pattern of genocides and crimes against humanity. The killing of more than 20-30 persons daily in a routine. The atrocities faced by the population living near artificial cease-fire line mostly go unreported due to restrictions placed by the Indian army. In addition to perpetration of atrocities through its armed forces India has devised certain counter insurgency measures where by, members of intelligence agencies disguised as civilians resort to various acts aimed at to antagonize the local people and foreign tourists. Indian newspapers and magazines including its leading fortnightly magazine 'India today', added Mr. Jalil, have already exposed these tactics, which are aimed at to tarnish the image of the Kashmiri freedom struggle.

The Kashmiri leadership. The All Parties Hurriyat Conference has all along deprecated the counter insurgency measures sponsored by the Indian intelligence agencies. The APHC had already condemned the kidnapping of five western tourists and called for their unconditional release. The APHC also condemned the gruesome murder of a Norwegian tourist terming it as a crime against the humanity. The Hurriyat Conference has stated that the murder of an innocent tourists through state sponsored terrorism was infect a desperate attempt by the Government of India to counter the growing concern in the western countries against the denial of right of self-determination to the Kashmiris and the crimes against humanity perpetrated by the Indian armed forces in Kashmir, stated Mr. Jalil.

It is indeed unfortunate that the Government of India has turned down the request of international community of the Red cross to open an office in Kashmir

this has been done to avoid the possibility of any restraining effect its presence might have on its armed force India has also refused access to UN to Rapporteures on torture and extra-judicial executions besides, the Amnesty International, said Mr. Jalil.

The initiation of humanitarian activities in Indian held Kashmir, by the various UN humanitarian agencies and its special rapporteures on torture and extra-judicial executions may or may not alleviate the sufferings of the people there, but it may still prevent some of their suffering in future. I on behalf of people of Kashmir urge the sub-commission to make a recommendation to the commission on human rights to depute humanitarian aid agencies, and its special rapporteures to Kashmir at the earliest, pleaded he.

The commemoration of the fiftieth anniversary of the United Nations is an occasion for introspection. The UN has been instrumental in the resolution of many conflicts and realization of self-determination by various peoples, like the people of Zimbabwe, Namibia, British Cameroons, Cambodia and South Africa. The effective, measures that were taken under the UN auspices by the international community to liberate Kuwait, had given a renewed hope to the colonized people of the world like Kashmiris that the end of cold war might finally have imbued the UN with the will to implement its resolutions and commitments. However, the indifference of the UN and the international community towards the plight of my people who are facing annihilation for demanding the fundamental human right of self-determination has made them to realize that perhaps the "Oil of the Gulf is more precious than the blood of Kashmiri people", argued Mr. Jalil.

Concluding his address Mr. Jalil Andrabi reminding the UN of its obligations towards Kashmiri said, "Kashmir issue has been on the agenda of the UN for the last 47 years. The commemoration of 50th anniversary of the UN provides this Sub-commission an occasion for reminding the UN through its Commission on Human Rights about its obligations towards the neglected people of Kashmir who are waging a legitimate struggle for achieving the exercise of their inherent, inalienable, internationally pledged and recognized right of self-determination.

Self-determination in Kashmir – the final verdict

Jalil Andrabi (Greater Kashmir, March 29, 1995)

When Sheikh Abdullah announced in New Delhi in June 1948 that "we the people of J&K have thrown our lot with the Indian people not in the heat of passion or a moment of despair, but by deliberate choice", he was declaring the integration of the people of an erstwhile princely state with those of the newly independent Indian state. If the people of J&K were to be allowed to exercise the right to self-determination to constitute themselves into a separate independent state or associate with Pakistan, then it would violently militate against the UN Charter. (Mr. Kanchan Gupta in the Pioneer dated March 8, 1995).

This is the argument on basis of which Mr. Kanchan Gupta Deputy Editor of *The Pioneer* contends that the people of J&K, having once exercised the right of self-determination were not entitled to exercise the same again. The contention of Kanchan Gupta proceeds on a totally fallacious premise, and is aimed to mislead the Indian public by deliberate distortion of the factual and the juridical aspects of the issue.

In addition to the fact that the contention of Mr. Gupta is totally fallacious and untenable in the light of history and the documents pertaining to the issue one is tempted to ask as to what was the status of Sheikh Abdullah under the Indian Independence Act of 1947? Could one individual chosen by the Government of India exercise the right of self-determination on behalf of the people of the nation? Or one could simply refer to the commitments made by the then Prime Minister of India, Jawaharlal Nehru before the Parliament of India to the people of Kashmir, and the International community, a few of which are quoted here under:

"Kashmiris should decide question of accession by plebiscite or referendum under international auspices such as those of United Nations". (Mr. Nehru's letter dated November 21, 1947 to the PM of Pakistan).

"I want to repeat that the Government of India will stand by that pledge, whatever happens. That pledge itself stated that it is for the people of Kashmir to decide their fate without external interference. That assurance also remains and shall continue". (Pt. Nehru's address at public meeting in Srinagar, June 4, 1951, reported in *Hindu*, June 5, 1951).

"Kashmir is not the property of India or Pakistan. It belongs to the Kashmiri people. When Kashmir acceded to India, we made it clear to leaders of Kashmiri people that we would ultimately abide by the verdict of their plebiscite. If they tell us, to walk out, I would have no hesitation in quitting Kashmir". We have referred the matter to UN and given our word of honor for a peaceful solution. As a great nation, we cannot go back on it. We have left the question of final solution to the people of Kashmir and were determined to abide by their decision. (Nehru's statement in *Amrit Bazar Patrika*, Calcutta, January 2, 1952)

"Every assurance we have given, every international commitment we have made in regard to Kashmir holds good and stands. Difficulties have come in the way and may come in its fulfillment, but the difficulties are not of our seeking but of others. But so far as the Government of India is concerned, every assurance and international commitment in regard to Kashmir stands". (Pt. Nehru's statement in the Indian Council of States, May 18, 1954).

"Even before the Security Council, speaking through its representative, Mr. Gopalaswami Ayenger India repeated its aforementioned stand by saying that:

"The question of the future status of Kashmir vis-a-vis her neighbours and the world at large and a further question, namely, whether she would withdraw from her accession to India and either accede to Pakistan or remain Independent with a right to claim admission as a member of United Nations - all this we have recognized to be a matter for unfettered decision by people of Kashmir after normal life is resorted to them...

Verdict of the ICJ... The International Commission of Jurists has given the final verdict in its recent report on Kashmir by holding that the people of J&K, had acquired the 'right of self-determination' at the time of partition, and that this right had neither been exercised nor abandoned and was, therefore, capable of exercise. This is a finding by the body of topmost jurists chosen from all the continents of the world, given after in depth study of the history, geography, politics and passion of Kashmir issue. This cannot be wished away by distorting the facts as is brought to be done by Mr. Kanchan Gupta. Even according to the resolutions on self-determination quoted by Mr. Kanchan Gupta, the aforesaid finding of the ICJ is fully justified and valid.

If the struggle for Swaraj by the people of India against alien occupation was justified by their desire to exercise the right of self-determination, so is the struggle of the people of J&K, to achieve this fundamental right of self-determination.

UN Charter: The struggle of the people of Kashmir is justified under the UN charter also. The preamble of the Universal declaration of Human Rights adopted and proclaimed by General Assembly resolution 217 A (111) of December 19, 1948 in the following words:

"... Whereas it is essential if a man is not to be compelled to have recourse as a last resort to rebellion against tyranny and oppression that human rights should be protected by the rule of law".

The pronouncements and commitments made by the Government of India were so clear and unambiguous that the people of Kashmir took Government of India for their word and opted to wait for the redemption of their pledges. This was even acknowledged by the Security Council while debating the issue in 1964, in the summing up of the proceedings by the President of the Council as reproduced below:

"The people of J&K laid down their arms and stopped their struggle for liberation because the UN, Government of India and Pakistan assured them that the object they were crusading and battling for was undoubtedly their right and they would have their right through peaceful means of plebiscite".

The Government of India, in the course of time, in flagrant violation of its commitments instead of taking steps for allowing the people of Kashmir to exercise their right of self-determination directed its energies towards gradual integration of Kashmir with India. Even when Sheikh Abdullah reacted to this volte-face, he

was put behind the bars for eleven long years on the basis of an allegation that he had been conspiring with the United States of America for achievement of an Independent Kashmir.

These developments naturally disillusioned the people about the true intentions of the Government of India and provoked them to reinvigorate their resolve to fight for their legitimate right of self-determination. India tried to crush the movement with force and fraud. Kashmiris, thousands in number were victimized imprisoned and subjected to most inhuman treatment. Even children and women were not spared. All these repressive measures, however, failed to kill the movement. Instead it gradually gave it further impetus and now a stage has been reached when there is a mass upsurge in Kashmir, and everyone elite and the labour, young or old, women or children has staked everything dear to him/her including their life and property to achieve the goal.

The response of the Government of India has been further repression and wanton abuse of human rights. Torture, rape and extra-judicial executions are a part of state policy in Kashmir. Independent International human rights organizations like Amnesty International, Asia Watch, and at last but not the least International Commission of Jurists have held the Indian armed forces guilty of these human rights violations. What is reported by this organization is, however, only a tip of the iceberg. Most of the cases of torture, rape and extra-judicial killings have gone unreported because Government of India does not allow the International organisations to investigate the allegations of human rights violations by giving them free access in Kashmir.

Even the ICJ, which was the first and the only international organization to visit Srinagar in 1993 for two days, has in its recent report regretted that it was not allowed the kind of access it desired in Srinagar.

Kashmiris will not seek an other option to exercise their right of self-determination to create an Independent and sovereign nation state (whatever the result). Kashmiris want to exercise this right as one time option and not a continuing process, the second definition of self-determination given by Mr. Kanchan Gupta does not apply to their case.

The denial of this right of self-determination to the people of Kashmir and their subjugation is a denial of the fundamental human rights, contrary to charter of the UN, and is an independent to the promotion of world peace and cooperation.

Neo-journalist like Mr. Kanchan Gupta are doing a great disservice to the Indian nation by deliberately concealing the real facts from the public and trying to create hurdles in the process of mobilizing public opinion for finding of an early and lasting solution to the Kashmir issue.

JALEEL ANDRABI

An Epitaph of Human Cause

—By Arshad Andrabi, Advocate

"The ways of Providence are unscrutable, but there must be some reason why such a young and promising life should be taken."

—And yet another young and promising life was taken between the intervening dates of March 8 to the 27th, 1996. I well remember the army contingent deployed a few hundred yards away near Police Station Saddar on a busy street near Parray Pora in Srinagar on Friday the 8th of March 1996. Me and my younger brother Manzoor were travelling in a white Maruti Car towards the residence of our brother Jaleel Andrabi, in Peerbagh on the southern outskirts of Srinagar city. Time was 5.15 p.m, when the Sikh major of Indian Army who was eagerly waiting for the return of Jaleel from his office chambers, waved his arm vigorously in the middle of the road. He was asking us to stop. Manzoor on the driving wheel was applying brakes with full force and the vehicle was about to halt just in front of the Major. I was wondering about the unusual setting of the army contingent. Two one ton Nissan vehicles, one Jonga jeep and in between a sky blue taxi carrying some men in plain clothes. What was the urgency of the Major to stop us himself? This was unusual of the routine checkings. He should have ordered some of his subordinate soldiers' to stop us and report to him. The major was intently gazing at me, as I resembled my brother, the same style of beard and wearing a dark coat as that of lawyers. Somebody from behind him said something when all of a sudden we were allowed to go.

They had been waiting there half an hour more when Jaleel came in his white Maruti, accompanied by his wife. He was asked to come down. There was some argument. He showed his Identity Card but still he was forced to board the Jonga military jeep besides the Major for some unknown destination.....never to return alive. The incident took place in broad day light on a busy street. There are hundreds of witnesses to this occurrence. Authorities were ...coached immediately

from the nearest Police Station. For nineteen days we knocked at the doors of the powers that be, the desperate family member approached every body within access only to get false assurances of his wellbeing and early release. They were told that he is being interrogated and will be released soon. We were told that on 9th March in the morning one of the highest political personality talked to the G.O.C in C in Badami Bagh Cantt, and he had assured that it will take about a week to complete the interrogation. After a prolonged period of hope and despair on the morning of 27th March, somebody came to us only to inform that there is a "dead body" in Police Control Room Srinagar. I was asked to identify. The whole family was already gathered at Jaleel's residence in Peerbagh, Sgr. and every evening I had to encounter the worried and inquisitive faces of the family members about the whereabouts of Jaleel.

Everyday unforeseen apprehensions would rise and fall with the assurances of the officials, and the well wishers who were constantly with us for these days and abandoned immediately thereafter. With a heavy heart Manzoor and me started towards Police Control Room. The atmosphere around was tense and gloomy as it would appear to me during all these days. Manzoor was younger to Jaleel and I was his elder. In police control room senior police officials were gathered and, we were sent back to Police Station Ram Munshi Bagh. The situation appeared more tense in that area as there had been a procession. People were teargassed and the police had also fired bullets. With lots of security deployed around, we were let in.....Inside there he lay, more peaceful and calm than usual. Today he was looking so cool and calm, which was quite unusual of him. I could immediately recognize the expression on his face. There was a message for us. It was written there that he had faced the death boldly, without any compromise. That was expected of him. Suddenly I felt proud of him. He had proved himself great. The twist and curl on his lips would tell me what and how he had spoken to his killers. There was a pistol shot on the parietals, the mark of some heavy weapon being used on the skull... possibly a rifle butt.. I kissed his forehead almost in a ceremonial way. He was smiling as he lay on the ground... a martyr, .. a shaheed "Shaheed-e-Insaf", they called him later. I was feeling so proud of him. No tears would come to my eyes.. Manzoor hugged me ... Baitatha. Baitatha.. as he would call him. I consoled him .. he understood the importance of this moment. I looked at him. He was as calm as me. Allah was kind enough to bestow patience upon us also as Jaleel had proved his greatness over and above every one of us around. This was a spiritual experience which cannot be described in words. Jaleel proved his namesake.. Jaleel-ul-Qadar.. the person of great stature.

I was preparing myself for the situation, the body was to be taken for post-mortem. The burial will be in Mazar-e-Shuhada, near Iddgah. Back home,

how to drop this news? This was the most difficult part of it. There was silence in the house. I entered, somebody had prepared them mentally. On seeing somebody cried loudly. "Dont cry' Nobody is going to weep in this house. It is not proper to weep on the occasion of Shahadat. I heard my grandmother saying. Therafter nobody wept in the house loudly for the days to come. Body was brought in the evening,, family members came one by one to see. It was very difficult to control the mob. I heard one of my sisters telling to his brother Jaleel, Baitatha we are proud of you. You didn't sell your Iman. Youngest sister fell on me "What was decided by Allah for us" I could say nothing except praying that Allah bestow patience to the family members, others also who were more sensitive and vulnerable.